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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/852,424	05/09/2001	Christopher R. Tudan	SMAR014	5001

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EXAMINER
SULLIVAN, DANIEL M

ART UNIT	PAPER NUMBER
1636	11

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/852,424	TUDAN ET AL.	
	Examiner	Art Unit	
	Daniel Sullivan	1636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-23 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) 1-23 are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1, 2, 4, 5, 7, 8 and 9, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:1-5, classified in class 514, subclass 44.

II. Claims 1, 2, 4, 5, 7, 8 and 9, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:6-9, classified in class 514, subclass 44.

III. Claims 1, 2, 4, 5, 7, 8 and 9, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:10-12, classified in class 514, subclass 44.

IV. Claims 1, 2, 4, 5, 7, 8 and 10, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and

the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:13 and 14, classified in class 514, subclass 44.

V. Claims 1, 2, 4, 5, 7, 8 and 11, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:18-21 and 29-32, classified in class 514, subclass 44.

VI. Claims 1, 2, 4, 5, 7, 8 and 11, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:22-25 and 33-36, classified in class 514, subclass 44.

VII. Claims 1, 2, 4, 5, 7, 8 and 11, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:26-28 and 37-39, classified in class 514, subclass 44.

VIII. Claims 1, 2, 4, 5, 7, 8 and 12, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO: 40-43, classified in class 514, subclass 44.

IX. Claims 1, 2, 4, 5, 7, 8 and 12, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:44-47, classified in class 514, subclass 44.

X. Claims 1, 2, 4, 5, 7, 8 and 12, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:48-50, classified in class 514, subclass 44.

XI. Claims 1, 2, 4, 5, 7, 8 and 13, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:51-58, classified in class 514, subclass 44.

XII. Claims 1, 2, 4, 5, 7, 8 and 13, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:59-66, classified in class 514, subclass 44.

XIII. Claims 1, 2, 4, 5, 7, 8 and 13, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4

antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:67-72, classified in class 514, subclass 44.

XIV. Claims 1, 2, 4, 5, 7, 8 and 14, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:74 and 75, classified in class 514, subclass 44.

XV. Claims 1, 2, 4, 5, 7, 8 and 15, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:76 and 77, classified in class 514, subclass 44.

XVI. Claims 1, 2, 4, 5, 7, 8 and 16, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:78-85, classified in class 514, subclass 44.

XVII. Claims 1, 2, 4, 5, 7, 8 and 16, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and

the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:86-93, classified in class 514, subclass 44.

XVIII. Claims 1, 2, 4, 5, 7, 8 and 17, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:94-101, classified in class 514, subclass 44.

XIX. Claims 1, 2, 4, 5, 7, 8 and 17, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:102-109, classified in class 514, subclass 44.

XX. Claims 1, 2, 4, 5, 7, 8 and 17, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:110-115, classified in class 514, subclass 44.

XXI. Claims 1, 2, 4, 5, 7, 8 and 17, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:116-121, classified in class 514, subclass 44.

XXII. Claims 1, 2, 4, 5, 7, 8, 18 and 19, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:122-125, classified in class 514, subclass 44.

XXIII. Claims 1, 2, 4, 5, 7, 8 and 20, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:126, classified in class 514, subclass 44.

XXIV. Claims 1, 2, 4, 5, 7, 8 and 20, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:127, classified in class 514, subclass 44.

XXV. Claims 1, 2, 4, 5, 7, 8 and 20, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *ex vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:128, classified in class 514, subclass 44.

XXVI. Claims 1-4, 6-9, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4

antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:1-5, classified in class 514, subclass 44.

XXVII. Claims 1-4, 6-9, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:6-9, classified in class 514, subclass 44.

XXVIII. Claims 1-4, 6-9, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:10-12, classified in class 514, subclass 44.

XXIX. Claims 1-4, 6-8, 10, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:13-17, classified in class 514, subclass 44.

XXX. Claims 1-4, 6-8, 11, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and

the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:18-21 and 29-32, classified in class 514, subclass 44.

XXXI. Claims 1-4, 6-8, 11, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:22-25 and 33-36, classified in class 514, subclass 44.

XXXII. Claims 1-4, 6-8, 11, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:26-28 and 37-39, classified in class 514, subclass 44.

XXXIII. Claims 1-4, 6-8, 12, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:40-43, classified in class 514, subclass 44.

XXXIV. Claims 1-4, 6-8, 12, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:44-47, classified in class 514, subclass 44.

XXXV. Claims 1-4, 6-8, 12, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:48-50, classified in class 514, subclass 44.

XXXVI. Claims 1-4, 6-8, 13, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:51-58, classified in class 514, subclass 44.

XXXVII. Claims 1-4, 6-8, 13, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:59-66, classified in class 514, subclass 44.

XXXVIII. Claims 1-4, 6-8, 13, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:67-72, classified in class 514, subclass 44.

XXXIX. Claims 1-4, 6-8, 14, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4

antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:74 and 75, classified in class 514, subclass 44.

XL. Claims 1-4, 6-8, 15, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:76 and 77, classified in class 514, subclass 44.

XLI. Claims 1-4, 6-8, 16, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:78-85, classified in class 514, subclass 44.

XLII. Claims 1-4, 6-8, 17, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:86-93, classified in class 514, subclass 44.

XLIII. Claims 1-4, 6-8, 17, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and

the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:94-101, classified in class 514, subclass 44.

XLIV. Claims 1-4, 6-8, 17, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:102-109, classified in class 514, subclass 44.

XLV. Claims 1-4, 6-8, 17, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:110-115, classified in class 514, subclass 44.

XLVI. Claims 1-4, 6-8, 18, 19, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:116-121, classified in class 514, subclass 44.

XLVII. Claims 1-4, 6-8, 19, 21 and 22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:122-125, classified in class 514, subclass 44.

XLVIII. Claims 1-4, 6-8 and 20-22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:126, classified in class 514, subclass 44.

XLIX. Claims 1-4, 6-8 and 20-22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:127, classified in class 514, subclass 44.

L. Claims 1-4, 6-8 and 20-22, drawn to a method of promoting hematopoietic cell multiplication, comprising administering an effective amount of CXCR4 antagonist to hematopoietic cells, wherein said hematopoietic cells are *in vivo* and the CXCR4 antagonist is selected from the group consisting of a peptide set forth as SEQ ID NO:128, classified in class 514, subclass 44.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-XXV are distinct, each from the other. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are drawn to methods of promoting hematopoietic cell multiplication *ex vivo* using a chemically distinct CXCR4 antagonists. The inventions are not disclosed as capable of use together and have different modes of operation in that the they utilize

patentably distinct antagonist molecules. Likewise, Inventions XXVI-L are distinct; as they are drawn to methods of promoting hematopoietic cell multiplication *in vivo* using the same patentably distinct antagonist molecules that distinguish Inventions I-XXV.

Inventions I-XXV are distinct from XXVI-L because Inventions I-XXV are directed to methods wherein cells are manipulated in culture while Inventions XXVI-L are directed to methods wherein cells are manipulated *in vivo*. The methods are not disclosed as capable of use together, and have different modes of operation in that Inventions I-XXV require method steps unique to manipulation of cells in culture that Inventions XXVI-L would not, and Inventions XXVI-L require method steps unique to administering CXCR4 antagonists *in vivo* that Inventions I-XXV would not.

Because these inventions are distinct for the reasons given above and the search required for each distinct CXCR4 antagonist is unique, as is the search for *in vivo* versus *ex vivo* methods, restriction for examination purposes as indicated is proper.

Claim 1 link(s) inventions I-L. The restriction requirement among the linked inventions is subject to the nonallowance of the linking claim(s), claim 1. Upon the allowance of the linking claim(s), the restriction requirement as to the linked inventions shall be withdrawn and any claim(s) depending from or otherwise including all the limitations of the allowable linking claim(s) will be entitled to examination in the instant application. Applicant(s) are advised that if any such claim(s) depending from or including all the limitations of the allowable linking claim(s) is/are presented in a continuation or divisional application, the claims of the continuation or divisional application may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Where a restriction

requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

The scope of claims 2, 4, 7 and 8 embrace Groups I-L, and the scope of claims 3, 21 and 22 embrace groups XXVI-L. Therefore the claims will be examined to the extent that they read on the elected Invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel M Sullivan whose telephone number is 703-305-4448. The examiner can normally be reached on Monday through Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Irem Yucel can be reached on 703-305-1998. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-9105 for regular communications and 703-746-9105 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

dms
September 26, 2002

JAMES KETTER
PRIMARY EXAMINER